
Please Direct All Correspondence to Customer Number 20995

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Applicant	:	Thomsen, Paul M.
Appl. No.	:	09/881,142
Filed	:	June 14, 2001
For	:	SYSTEM AND METHOD FOR SELECTING SYMBOLS ON A TELEVISION DISPLAY
Examiner	:	James R. Sheleheda
Group Art Unit	:	2623

Mail Stop AF

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Dear Sir:

Applicant requests a review of the rejections in the above-identified applications of November 15, 2006 and February 5, 2007. No amendments are being filed with this request. Enclosed with this Request is a Notice of Appeal. Review of the above-identified application is requested for the following reasons.

Claims 1-3, 5-20, 22-26, 28-31 and 33-64 as most recently amended with the response to non-final Office Action of September 1, 2006 are currently pending. The Office Action of November 15, 2006 rejects Claims 1-3, 5-20, 22-26, 28-31 and 33-64 under 35 U.S.C. § 103(a) as being unpatentable over combinations of Chang (U.S. Patent Number 5,543,851, hereinafter "Chang") in view of Dey et al (U.S. Patent Number 6,490,580, hereinafter "Dey") and for some claims in further in view of Rumreich et al. (U.S. Patent Number 6,097,442, hereinafter "Rumreich"). Applicant believes a clear error has been made in these rejections.

I. Overview of the Currently Pending Claimed Subject Matter

Claim 1 defines features that distinguish the invention over the prior art of record. Independent Claims 3, 7, 20 and 31 include similar features. Claim 1 reads as follows:

1. A method of selecting symbols on a display, the method comprising:
 - receiving a video signal that comprises closed caption data, wherein the closed caption data includes a plurality of symbols;
 - displaying the closed caption data on the display;
 - storing at least portion of the closed caption data in a buffer;
 - receiving, via an input device, first control instructions to maintain the displayed closed caption data on the display until the occurrence of a selected event, wherein the selected event is one

of: receipt of second control instructions to resume the display of the closed captioned data in the video signal, the passage of a predetermined amount of time, or receipt of third control instructions requesting of at least one of the symbols;

receiving, via the input device, the third control instructions to select at least one of the symbols:

highlighting the selected symbols on the display; and

transmitting, via a network, the selected symbols to a shared database system that is external to the display.

Claim 1 defines a “method of selecting symbols on a display” which includes, among other things, “receiving a video signal that comprises closed caption data, wherein the closed caption data includes a plurality of symbols.” This closed caption data is then displayed on a display. Following this, among other things, control instructions are received via an input device, to select at least one of the symbols. The selected closed caption data is then highlighted on the display, and that highlighted material is transmitted, via a network, to a shared database system that is external to the display. Independent Claim 7 also defines a method of selecting symbols. Claims 3 and 20 each define an electronic device, and Claim 31 defines a system for selecting symbols on a display. Each of these Independent Claims also incorporates features similar to those of Claim 1.

One embodiment of the invention described in the application includes an electronic device configured to receive closed caption data, including symbols. Using an input device, such as a remote control, a user can maintain the closed caption information on a display associated with the electronic device. Further, the user can select one or more symbols, such as individual words from the maintained text, for transmission over a network to a remote shared database system.

II. Discussion Of The Pending Rejections

The Examiner rejected Claims 1-3, 5-20, 22-26, 28-31 and 33-64 under 35 U.S.C. § 103(a) as being unpatentable over Chang in view of Dey. The Examiner also rejected Claims 45-47, 50-52, 55-57 and 60-62 under 35 U.S.C. § 103(a) as being unpatentable over Chang and Dey as applied to Claims 1, 3, 7, 20 and 31 and further in view of Rumreich.

A. *The Cited References Neither Teach Nor Make Obvious The Transmission Of Closed Caption Data To A Database System That Is External To The Display*

Applicant’s claimed invention includes “transmitting, via a network, the selected symbols to a shared database system that is external to the display” (Claim 1). In contrast, Chang is generally directed to a translation utility that allows the user to display translations of closed caption information. *See, e.g., Chang, Figure 7b*. Chang does not transmit anything via a network and accordingly does not transmit “the selected symbols” via a network.

In the Office Action, the Examiner conceded that Chang “fails to specifically disclose transmitting, via a network, the selected symbols to a shared database system that is external to the

display” (See Office Action, p.3) but took the position that this feature was described in Dey. Applicant respectfully disagrees that Dey teaches this limitation.

Dey is generally directed to a system for retrieving documents that relate to a particular *temporal portion* of an audiovisual sequence. Neither Chang nor Dey transmits “via a network, *the selected symbols [of displayed closed caption information by an input device] to a shared database system* that is external to the display.” (Emphasis added). Instead of transmitting any user-selected symbols, Dey utilizes text associated with the identified point in time of the temporal document to find related materials. In particular:

The text associated with the portion of the temporal document which has been identified is used to locate other material that may be related to that portion of the temporal document in which interest has been indicated. This is done by using the associated text as a basis for a search query on a database of documents located on the web. Dey, column 9, lines 25-30.

In conducting this search:

The terms to be included in the search query are selected by consulting the table for the temporal document which contains all terms in the text associated with the document, and the times at which the terms occur, and choosing all terms which occur within the thirty seconds before the indication of interest. Dey, column 9, lines 53-58.

Therefore, the basis for a search query in Dey is the body of text associated with a temporal portion (*e.g.*, thirty seconds) of an audiovisual work that has been identified as a point in time. The search query is not based upon any specific text displayed to the user. Instead, it incorporates into the search query all terms occurring within the thirty-second portion of the audiovisual work. Accordingly, it is clear that Dey does not teach transmission of any “selected symbols [from displayed closed caption information selected by an input device] to a shared database system that is external to the display” as defined in Applicant’s independent Claims. In fact, Dey does not make it possible for a user to select and use a particular displayed symbol in a search. Instead, Dey’s search will return results for the tens or possibly hundreds of words in the predefined temporal portion (*e.g.*, thirty seconds) which will not all be related to the actual interest of the user.

Applicant respectfully submits that, even when taken in combination, Chang and Dey fail to teach or suggest at least the limitation of transmitting, via a network, the selected displayed symbols of closed caption information to a shared database system that is external to the display.

B. *It Would Be Impossible To Combine The Cited References And Thus There Is No Motivation For Such A Combination*

In the Office Action, the Examiner took the position that “it would have been obvious to one of ordinary skill in the art at the time of the invention by Applicant to modify Chang’s system to include transmitting, via a network, the selected symbols to a shared database that is external to the display, as taught by Dey, for the typical benefit of a user with immediate access to additional content related to the current broadcast.”

Applicant respectfully disagrees with the Examiner’s position. Very importantly, it must be noted that Chang and Dey attempt to address very different problems. In the case of Chang, it is directed to providing translation information retrieved from a local database to a local user. The invention in Chang does not lend itself to the more cumbersome and complex approach of seeking translation data from a source external to the local system. For example, the translation accuracy from an external source may be unknown. If anything, Chang teaches away from accessing resources external to the database to resolve the problem it addresses.

Dey, on the other hand, is directed to the generation of a plurality of keyword search terms for locating documents related to an identified temporal portion of an audiovisual work. The search query developed in Dey does not use any symbol selected from displayed closed caption data. Rather, the search query terms are selected by reference to a table containing certain terms in the text associated with the temporal document. In Dey, a user cannot conduct a search based on specific displayed closed caption symbol selected by that user.

Because Dey is not using specific displayed closed caption data for searching, it is not compatible with Chang. Likewise, application of Dey’s teachings in Chang would result in the use of search terms other than the specific text selected from the closed caption data, which would conflict with the the very purpose of Chang. Accordingly, Applicant respectfully submits that there is no motivation to combine the teachings of Chang and Dey and that they each teach away from such a combination. Indeed, it would be impossible to combine these references into a result that actually assisted, or was even compatible with, the resolution of the problems to which they are respectively directed.

In view of the above, Applicant respectfully submits that the Claims as presented in Applicant’s pending application define subject matter which is patentable over Chang and Dey, whether taken alone or in combination.

C. *Rumreich Adds No Teaching Nor Suggestion To The Other Cited Art That Would Have Made Obvious The Claimed Invention*

Applicant respectfully submits that with respect to Claims 45-47, 50-52, 55-57 and 60-62 there is no motivation or suggestion in Chang and/or Dey to incorporate the teachings of Rumreich to derive the claimed invention. In the Office Action, the Examiner acknowledged that neither Chang

nor Dey described formatting of symbols, but he took the position that this feature is described by Rumreich. In response, Applicant respectfully submits that Rumreich fails to teach or suggest formatting for the purpose recited in Chang or Dey (*i.e.*, formatting closed caption data for transmission to a shared database system).

Rumreich is generally directed to improved ways of processing closed caption information for usage in picture-in-picture displays, and not for transmitting selected symbols to an external shared database. *See e.g.*, Rumreich, col. 2, lines 50-62. In contrast, Applicant's Claims 45-47, 50-52, 55-57 and 60-62 each recite: "formatting the selected symbols for transmission to the shared database system." Since the closed caption data in Rumreich is only being formatted for picture-in-picture display on a television, Applicant submits that the closed caption subject matter would not be formatted in a manner suitable for transmission to a shared database.

In Rumreich, the system analyzes the control codes to determine whether to insert carriage returns in the caption information. *See* Rumreich, col.5, lines 35-38. In contrast, with respect to an embodiment encompassed by Claim 1, there is no teaching or suggestion in Rumreich that control codes should be entirely removed from the user's selected portion of closed caption information, as would be necessary for a relevant search to be generated from the user's selected words, such as is described on page 10, lines 13-15 of the present application. Because Rumreich is directed to different problems than are solved by the claimed invention, or problems solved by Dey or Chang, Applicant respectfully submits that one of ordinary skill in the art would not be motivated to combine the teachings of Rumreich with Chang and Dey. Furthermore, even if such combination were attempted, the result would neither teach nor suggest any invention defined in Applicant's Claims.

In view of the foregoing, Applicant respectfully asserts that under the requirements of 35 U.S.C. § 103(a) Chang, Dey and Rumreich do not individually or collectively anticipate or render obvious the Applicant's claimed invention. Applicant thus respectfully requests reconsideration of the currently rejected Claims, withdrawal of the pending rejections and prompt issuance of a Notice of Allowability.

Respectfully submitted,
KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: 4/13/2007

By: 

Eric M. Nelson
Registration No. 43,829
Attorney of Record
Customer No. 20,995
(619) 235-8550